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3 **E-FILED on 11/13/08**
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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE NORTHERN DISTRICT OF CALIFORNIA
8 SAN JOSE DIVISION

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10 IN RE
11 CYGNUS TELECOMMUNICATIONS
12 TECHNOLOGY, LLC, PATENT
13 LITIGATION

14 MDL No. 1423
15
16 No. C-02-00142-RMW
17 No. C-02-00145-RMW
18 No. C-02-05437-RMW
19 No. C-03-05758-RMW
No. C-03-03378-RMW
No. C-03-03594-RMW
No. C-03-03596-RMW
No. C-03-04003-RMW
No. C-04-03001-RMW
No. C-04-03365-RMW
No. C-04-04247-RMW
No. C-04-04359-RMW
No. C-06-03843 RMW
No. C-02-00142-RMW
No. C-06-04295 RMW
No. C-06-06479 RMW

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21 ORDER DENYING REQUEST FOR
22 CLARIFICATION OF MARCH 30,2007
23 ORDER
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1 On October 24, 2008, Plaintiff Cygnus Telecommunications Technology, LLC ("Cygnus")
2 moved for an order clarifying this court's March 30, 2007 order on defendants' motion for summary
3 judgment. Previously, on September 22, 2008, counsel for Cygnus made a similar request by letter and
4 filed the current motion because he had not received a response to the letter request. The court had
5 responded, a copy of which is attached, but, inadvertently, a copy was not sent to Cygnus's counsel. The
6 court apologizes for this oversight. Nonetheless, after considering Cygnus' motion, the court denies the
7 request.

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10 DATED: 11/13/08


RONALD M. WHYTE
United States District Judge

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13 Counsel are responsible for distributing copies of this document to co-counsel that have not
14 registered for e-filing under the court's CM/ECF program.

15
16 **Dated:** 11/13/08

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JAS
Chambers of Judge Whyte

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Attachment

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
UNITED STATES COURTHOUSE
280 SOUTH FIRST STREET
SAN JOSE, CALIFORNIA 95113

CHAMBERS OF
RONALD M. WHYTE
UNITED STATES DISTRICT JUDGE

(408) 535-5331



October 10, 2008

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Re: Cygnus Telecommunications Technology, LLC v. Americom; MDL-1433;
Case Nos. C-04-0142, C-02-0145, C-02-5437 and C-04-4359-RMW

Dear Counsel:

I write in response to Mr. Sutton's letter to me dated September 22, 2008 concerning "the applicability of [my] March 30, 2007 Order as it related to the on-sale bar under 35 U.S.C. § 102(b)" and Mr. Silvestrini's letter of September 25, 2008 objecting to Mr. Sutton's request. There is a misunderstanding as to what I said or at least intended to say at the September 19, 2008 hearing in the *Cygnus v. American Int'l Telephonics* case. Mr. Sutton raised a question concerning my March 30, 2007 Order which, of course, was the subject of the appeal to the Federal Circuit. My response to Mr. Sutton was intended only to say I could not discuss anything to do with that order because counsel representing the parties were not present. I merely meant

Counsel
October 10, 2008
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to advise Mr. Sutton that if he had something he wanted to present to me, he should put it in a letter and copy all parties. I did not mean to suggest that I would or should take action or respond to any request he submitted. Now that I have seen the nature of his request, I believe it would be highly inappropriate for me to respond and I will not do so.

Very truly yours,



Ronald M. Whyte
United States District Judge